

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
CBS Communications Services, Inc.)	File No.: EB-10-LA-0110
)	
)	NAL/Acct. No.: 201132900004
Antenna Structure Registrant)	
Torrance, California)	FRN: 0003183183
ASR No. 1014523)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE AND ORDER

Adopted: April 25, 2011**Released:** April 27, 2011

By the District Director, Los Angeles Office, Western Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that CBS Communications Services, Inc. (“CBS”), registrant of antenna structure #1014523 in Torrance, California, apparently repeatedly violated section 303(q) of the Communications Act of 1934, as amended (“Act”),¹ and section 17.51(a) of the Commission’s rules (“Rules”)² by failing to exhibit the structure’s red obstruction lighting from sunset to sunrise. We conclude that CBS is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. The antenna structure registration (“ASR”) for antenna structure #1014523 requires the structure to have obstruction marking and lighting.³ Specifically, the structure is required to be painted and to have, at its top, a flashing red obstruction beacon, along with steady burning red side obstruction lights at approximately two-thirds and one-third of the over-all height of the tower.⁴

3. On May 13, 2010, an employee of the Enforcement Bureau’s Los Angeles Office (“Los Angeles”) observed that the top beacon of a tower, located next to the intersection of W 190th Street and Prairie Avenue in Torrance, CA, was unlit at approximately 11:20 p.m.⁵

¹ 47 U.S.C. § 303(q).

² 47 C.F.R. § 17.51(a).

³ See FCC Forms 715/715A, paragraphs 1, 3, 12 and 21. Antenna structure #1014523 is an antenna tower of 114.4 meters (approximately 375 feet) in height above ground.

⁴ *Id.*

⁵ According to the National Oceanic and Atmospheric Administration, the local sunset on May 13, 2010, in the Los Angeles, California, area occurred at 7:46 p.m. See <http://www.srrb.noaa.gov/highlights/sunrise/sunrise.html>, visited October 27, 2010.

4. On May 14, 2010, an agent from the Los Angeles Office performed a search of the FCC database for the antenna structure and found an ASR record of #1014523 registered to CBS Communications Services, Inc. The agent also contacted the Federal Aviation Administration (“FAA”) Flight Service Station (“FSS”) to determine if the tower light outage had been reported. When informed by the FAA that no prior light outage report had been made for antenna structure #1014523, the agent requested that the FSS issue a notice to airmen (“NOTAM”) for tower #1014523. Subsequently, a few hours later, the agent confirmed that the NOTAM had been issued. Later that day, the Los Angeles agent was on scene at the intersection of W 190th Street and Prairie Avenue in Torrance, CA, and inspected antenna structure #1014523 between 7:20 p.m. and 8:30 p.m.⁶ The agent again confirmed that the top beacon of the tower was not lit after sunset.

5. On May 18, 2010, at approximately 11:00 a.m., the Los Angeles agent visited the main studio of CBS radio station KNX(AM) in Los Angeles, California,⁷ to obtain tower inspection logs concerning the light outage on antenna structure #1014523. The CBS tower logs showed that a NOTAM was filed on May 18, 2010, five days after the date when the tower was initially observed as unlit by an FCC agent.

6. On May 20, 2010, an engineer from CBS called the Los Angeles agent and advised that the tower light on antenna structure #1014523 had been repaired and was operational. The engineer also acknowledged that the person who monitored for light outages apparently did not notice every outage evident in the system.

III. DISCUSSION

7. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty. The term “willful” as used in section 503(b) has been interpreted to mean simply that the acts or omissions are committed knowingly.⁸ The term “repeated” means the commission or omission of such act more than once or for more than one day.⁹

8. Section 303(q) of the Act states that antenna structure owners shall maintain the painting and lighting of antenna structures as prescribed by the Commission.¹⁰ Section 17.51(a) of the Rules states that all

⁶ According to the National Oceanic and Atmospheric Administration, the local sunset on May 14, 2010, in the Los Angeles, California, occurred at 7:47 p.m. See <http://www.srrb.noaa.gov/highlights/sunrise/sunrise.html>, visited October 27, 2010.

⁷ CBS Radio East, Inc., is the licensee of Station KNX(AM). Antenna structure #1014523 is used to broadcast KNX(AM).

⁸ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act...” See, e.g., *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992).

⁹ Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under section 503(b) of the Act, provides that “[t]he term ‘repeated’, when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.”

¹⁰ 47 U.S.C. § 303(q).

red obstruction lighting shall be exhibited from sunset to sunrise unless otherwise specified.¹¹ The ASR for antenna structure #1014523 requires that the structure be painted and have, at its top, a flashing red beacon, along with steady burning red side obstruction lights at approximately two-thirds and one-third of the overall height of the tower.¹²

9. As discussed above, on May 13, 2010, May 14, 2010, and May 18, 2010, the top beacon of antenna structure #1014523 located in Torrance, CA, was unlit. The FCC's inspection also revealed that the station logs of CBS did not accurately reflect the light outage over the prior four days. On May 20, 2010, CBS advised that the antenna structure light had been repaired and acknowledged that they did not notice the warning alert of the light outage before May 18, 2010. Based on the evidence before us, we find that CBS apparently repeatedly violated section 303(q) of the Act, and section 17.51(a) of the Rules, by failing to maintain the required red obstruction lighting on antenna structure #1014523.

10. Pursuant to the Commission's *Forfeiture Policy* and section 1.80 of the Rules, the base forfeiture for failing to comply with the prescribed lighting and/or marking for an antenna structure is \$10,000.¹³ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in section 503(b)(2)(E) of the Act,¹⁴ which include the nature, circumstances, extent, and gravity of the violations, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require. CBS's failure to maintain required lighting on the antenna structure and comply with the FCC's tower rules created a potential hazard to air navigation. Applying the *Forfeiture Policy Statement*, section 1.80, and the statutory factors to the instant case, we conclude that CBS is apparently liable for a \$10,000 forfeiture. We also direct CBS to submit a written statement signed under penalty of perjury by an officer or director of the company stating that antenna structure #1014523 is now in compliance with Section 17.51(a) of the Commission's Rules. This statement must be provided to the Enforcement Bureau at the address listed in paragraph 15 within fifteen days of the release date of this Notice of Apparent Liability for Forfeiture.

IV. ORDERING CLAUSES

11. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Communications Act of 1934, as amended, and sections 0.111, 0.204, 0.311, 0.314 and 1.80 of the Rules, CBS Communications Services, Inc. is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of ten thousand dollars (\$10,000) for violations of section 303(q) of the Act, and section 17.51(a) of the Rules.¹⁵

12. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Rules within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, CBS Communications Services, Inc., **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

13. **IT IS FURTHER ORDERED** that CBS Communications Services, Inc. **SHALL SUBMIT** a sworn statement as described in paragraph 10 to the Enforcement Bureau Office listed in paragraph 15

¹¹ 47 C.F.R. § 17.51(a).

¹² FCC Forms 715/715A, paragraphs 1, 3, 12, and 21.

¹³ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

¹⁷ 47 U.S.C. § 503(b)(2)(E).

¹⁸ 47 U.S.C. §§ 303(q), 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80, 17.51(a).

within fifteen (15) days of the release date of this Notice of Apparent Liability for Forfeiture.

14. Payment of the forfeiture must be made by credit card, check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.¹⁶ Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures. CBS Communications Services, Inc. shall also send electronic notification on the date said payment is made to WR-Response@fcc.gov.

15. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.80(f)(3) and 1.16 of the Rules. The written statement must be mailed to Federal Communications Commission, Enforcement Bureau, Western Region, Los Angeles Office, 18000 Studebaker Rd., #660, Cerritos, CA 90703 and must include the NAL/Acct. No. referenced in the caption. An electronic copy shall also be sent to WR-Response@fcc.gov.

16. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

17. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by both Certified Mail, Return Receipt Requested, and regular mail, to CBS Communications Services, Inc., 2175 K Street, NW, Washington, D.C. 20037.

FEDERAL COMMUNICATIONS COMMISSION

Nader Haghighat
District Director
Los Angeles Office
Western Region
Enforcement Bureau

¹⁶ See 47 C.F.R. § 1.1914.